

**§ 135-105. Short-term disability benefits.**

(a) Any participant who becomes disabled and is no longer able to perform his or her usual occupation may receive a benefit commencing on the first day succeeding the waiting period provided all of the following conditions are met:

- (1) Application for the benefit occurs at least 365 calendar days succeeding the participant's date of initial employment as a teacher or employee.
- (2) The participant has at least one year of contributing membership service earned within 36 calendar months immediately preceding the date of disability. Salary continuation used during the period as provided in G.S. 135-104 shall count toward this one-year requirement.
- (3) Application for the benefit occurs no later than 365 days following the first day of the waiting period.
- (4) The participant's employer and attending physician certify that the participant is mentally or physically incapacitated for the further performance of duty.
- (5) The participant's incapacity was incurred at the time of active employment and has been continuous thereafter.

As to the requirement that a participant applying for short term disability benefits have at least one year of contributing membership service within the 36 calendar months immediately preceding the date of disability, a participant who would have qualified for a benefit under this section but for service in the uniformed services shall not be denied a benefit under this section because of that interruption for military service provided all other requirements of this section are met.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article.

(b) The benefits as provided for in subsection (a) of this section shall commence on the first day following the waiting period and shall be payable for a period of 365 days as long as the participant continues to meet the definition of disability. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of short-term disability benefits; provided further, such election shall not extend the 365 days duration of short-term payments. An election to receive any salary continuation for any part of a given day shall be in lieu of any short-term benefit otherwise payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any short-term benefit otherwise payable.

(c) The monthly benefit as provided in subsection (a) of this section shall be equal to fifty percent (50%) of 1/12th of the annual base rate of compensation last payable to the participant prior to the beginning of the short-term benefit period as may be adjusted for percentage increases as provided under G.S. 135-108 plus fifty percent (50%) of 1/12th of the annual longevity payment to which the participant would be eligible, to a maximum of three thousand dollars (\$3,000) per month reduced by monthly payments for Workers' Compensation to which the participant may be entitled. The monthly benefit shall be further reduced by the amount of any payments from the federal Veterans Administration, any other federal agency, or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, that should a participant have earnings in an amount greater than the short-term benefit, the amount of the short-term benefit shall be reduced on a dollar-for-dollar basis by the amount that exceeds the short-term benefit.

(d) For short-term disability benefits that begin before July 1, 2019, the provisions of this section shall be administered by the employer and further, the benefits during the first six months

of the short-term disability period shall be the full responsibility of and paid by the employer; Provided, further, that upon the completion of the initial six months of the short-term disability period, the employer will continue to be responsible for the short-term benefits to the participant, however, such employer shall notify the Plan, at the conclusion of the short-term disability period or upon termination of short-term disability benefits, if earlier, of the amount of short-term benefits and State Health Insurance premiums paid by the employer and the Plan shall reimburse the employer the amounts so paid.

(d1) For short-term disability benefits that begin on and after July 1, 2019, the provisions of this section shall be administered by the employer. The benefits during the first 12 months of the short-term disability period, including benefits from a preliminary determination of eligibility for long-term disability under subsection (f) of this section, shall be the full responsibility of and paid by the employer.

(e) During the short-term disability period, a beneficiary may return to service for trial rehabilitation for periods of not greater than 40 continuous days of service. Such return will not cause the beneficiary to become a participant and will not require a new waiting period or short-term disability period to commence unless a different incapacity occurs. The period of rehabilitative employment shall not extend the period of the short-term disability benefits.

(f) A participant or beneficiary of short-term disability benefits or his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, or the employer of the participant or beneficiary, may request the Board of Trustees to have the Medical Board make a determination of eligibility for the short-term disability benefits as provided in this section or to make a preliminary determination of eligibility for the long-term disability benefits as provided in G.S. 135-106. A preliminary determination of eligibility for long-term disability benefits shall not preclude the requirement that the Medical Board make a determination of eligibility for long-term disability benefits.

(g) The Board of Trustees may extend the short-term disability benefits of a beneficiary beyond the benefit period of 365 days for an additional period of not more than 365 days; provided the Medical Board determines that the beneficiary's disability is temporary and likely to end within the extended period of short-term disability benefits. During the extended period of short-term disability benefits, payment of benefits shall be made by the Plan directly to the beneficiary. This extended period of short-term disability benefits shall be treated in the same manner as long-term disability payments for the purposes of G.S. 135-108. (1987, c. 738, s. 29(q); 1989, c. 717, s. 10; 1989 (Reg. Sess., 1990), c. 1032, s. 1; 1991 (Reg. Sess., 1992), c. 779, s. 3; 1993 (Reg. Sess., 1994), c. 769, s. 7.30(t); 2003-284, s. 30.20(k); 2004-78, s. 2; 2007-325, s. 1; 2013-288, s. 6; 2018-52, s. 10(a); 2018-85, s. 1.)